

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN

DIRECTOR

August 24, 1994
AO-94-29

Mr. David Nash
1 Walker Street
Westborough, MA 01581

Re: Reporting obligations of group intending to eventually
form new political party.

Dear Mr. Nash:

This letter is in response to your July 30, 1994 request for an advisory opinion regarding the reporting obligations of a group intending eventually to form a new political party.

You have asked "how much a group of people can do to encourage new people to consider running for political office, and to work to build a new political party in the commonwealth, before they are required to file a statement of organization, set up a special banking account, and file regular reports" with this office.

"Political committees" are required to file statements of organization, and periodic reports of contributions and expenditures, with this office. See sections 5 and 18 of M.G.L. c. 55, the campaign finance law. Section 1 of the statute defines a political committee as "any committee, association, organization, or other group of persons, including a national, regional, state, county, or municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates, or of presidential and vice presidential electors, or for the purpose of opposing or promoting a . . . question submitted to the voters." (Emphasis added).

If the group will raise funds specifically to influence the voters on a ballot question or in connection with the nomination or election of clearly identified candidates, it would be considered a "political committee" subject to the campaign finance law and would be required to register and file periodic reports with this office pursuant to M.G.L. c. 55.

Even if the group does not raise funds to support or oppose clearly identified candidates, if the group makes expenditures to support or oppose a candidate or candidates, it must disclose such expenditures if they exceed \$100 in any calendar year. See M.G.L. c. 55, s. 18A. If the group spends more than 10% of its previous year's gross income, or \$15,000, whichever is less, to aid, promote or prevent the nomination or election of any person to public office, or to aid, promote or antagonize the interest of any political party, it would be considered a "political committee" subject to all provisions of M.G.L. c. 55. See IB-88-01, (a copy of which is enclosed).

Merely encouraging people, in general, to run for office, would not require your group's registration as a political committee. You have indicated, however, that your intention is to encourage the candidacy of persons associated with your group. I note that section 5, which deals with the organizational requirements of political committees, states that "the name and address, if known, and party affiliation of each candidate the political committee is supporting" is required in the committee's statement of organization. (Emphasis added). The office has concluded that this language suggests that groups may be "political committees" even if they are not yet actively supporting an identified candidate. See AO-90-26. Therefore, although your group may not immediately become actively involved in supporting a clearly identifiable candidate or candidates, it will nevertheless be subject to the provisions of the campaign finance law, when it begins making expenditures or soliciting funds to advocate the election or defeat of a particular class or group of candidates.

You have stated that you would like to form a new political party. A group can become a "political designation" by filing a petition, with the state secretary, signed by 50 registered voters, and then encourage other voters to enroll in the designation. Once at least one percent of all registered voters in the state are enrolled, the designation becomes a political party. Alternatively, when a designation obtains at least three percent of the entire vote cast in a statewide election, it becomes a political party. See M.G.L. c. 50, s. 1, which defines "political designation" and "political party."¹

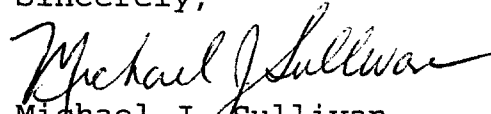
Political parties are required to elect a state committee. See M.G.L. c. 52, s. 1. If you establish a new political party, the committee will then be required to designate a depository bank for campaign funds. Section 19(a) of M.G.L. c. 55 sets forth the relevant law regarding appointing a depository bank and the filing of reports by the depository bank. Prior to your establishing a new political party, however, your group, if it is a "political committee," would be required to list, in its campaign finance reports, "all banks or other financial institutions used" by the committee. See M.G.L. c. 55, s. 18.

¹ You may contact the Elections Division of the Office of the Secretary of State, at (800)-462-VOTE or (617)-727-2828 to learn more about the formation of political parties.

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Except where noted, this opinion has been rendered solely in the context of M.G.L. c. 55 and has been based solely on the representations made in your letter and in telephone conversations with staff. Should you have additional questions, please do not hesitate to contact this office.

Sincerely,


Michael J. Sullivan
Director

MJS/cp
Enclosure